IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 387 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17/02/2005 in WP NO : 1982 OF 2005 on the file of the High Court.)

Between:

M. Sangameswara Rao, S/O. Late M.S. N. Sastry,
R/o. Plot No.7, Gokul Dham, Purushothampuram, Bhaskararao Constructions, Near Pendurthi, Visakhapatnam.

..... APPELLANT

AND

1 The Senior Divisional Security Commissioner, Railway Protection Force, East Coast Railways, Waltair Division, Visakhapatnam.

2 V. Seshadri, Assistant Security Commissioner, Railway Protection Force, East coast Railway, Waltair Division, Visakhapatnam, A.P.
3 V.K.C. Reddy, Deputy Superintendant of Police. C.B.I D.No. 1-83/21, A. MVP. Colony, Sector-B, Visakhapatnam, A.P.
4 The Divisional Security Commissioner, Railway Protection Force, East Coast Railway, SambalpurDivsion., Sambalpur, District Sambalpur, Orissa State.

.....RESPONDENTS

Counsel for the Appellant: MR.J.M.NAIDU

Counsel for the Respondents.: MR.G.S.SANGHI

The Court made the following :

JUDGMENT: (per Hon'ble Sri Justice L. Narasimha Reddy)

The appellant is facing disciplinary enquiry. The 3rd respondent was appointed as a Presenting Officer by the 1st respondent on behalf of the Department through proceedings, dated 20.01.2005. The appellant filed W.P.No.1982 of 2005 challenging the very initiation of the disciplinary proceedings as well as the appointment of the 3rd respondent as a Presenting Officer. One of the grounds raised in the writ petition, was that the 3rd respondent was cited as one of the witnesses in the charge sheet and in that view of the matter, he cannot be engaged as a Presenting Officer.

On behalf of the respondents, a counter affidavit is filed narrating the circumstances that led to the initiation of the disciplinary proceedings as well as engagement of 3rd respondent as Presenting Officer. On a consideration of the pleadings and submissions made on behalf of the parties, the learned Single Judge dismissed the writ petition through order, dated 17.2.2005.

Mr.J.M. Naidu, the learned Counsel for the appellant submits that the 3rd respondent is not qualified to be appointed as a Presenting Officer in view of the fact that he was cited as witness No.15 in the charge sheet. He contends that he is bound to be biased, having been a party to the investigation undertaken against the appellant. He further contends that the criminal proceedings initiated against the appellant ended in acquittal and the 3rd respondent, who was entrusted with the engagement is trying to be vindictive.

Mr. G.S. Sanghi, the learned standing counsel, on the other hand, submits that being a witness in the proceedings is not a disqualification for an individual or official to function as a Presenting Officer and that the order under appeal does not warrant any interference.

The limited controversy in this appeal is as to whether the 3rd respondent had incurred disqualification, to be engaged as a Presenting Officer. The status of a Presenting Officer in departmental or disciplinary proceedings is comparable to that of an advocate in ordinary legal proceedings. By their very nature, the Counsel appearing in a Court, or Presenting Officer in departmental proceedings is bound to have a leaning favour of the persons or agencies, whom they represent. Many a time, it becomes their duty to advance the cause of the person or agency, whom they represent. Impartiality or maintainability is not phenomenon, expected of them. The nature of bias or disqualification pleaded by the appellant, at the most, applies to enquiry officers or those who are entrusted with any adjudicatory functions. Inasmuch as the 3rd respondent is not entrusted with any adjudicatory or quasi-judicial functions, this Court does not find the basis to interfere with engagement of the 3rd respondent as a Presenting Officer. The fact that he was cited as a witness does not invite any disqualification.

As regards the other question viz., the basis for initiation of disciplinary proceedings, the learned Single Judge recorded cogent reasons in support of the conclusion arrived at by him. We would not find any basis to interfere with the order of the learned Single Judge.

Accordingly, the Writ Appeal is dismissed and the order of the learned Single Judge is confirmed. No order as to costs.

_____

Justice T. Meena Kumari

_____

Justice L. Narasimha Reddy

Dated: 7th April, 2005

Nn/Gurc.

Copy to :

1. The Senior Divisional Security Commissioner, Railway Protection Force, East Coast Railways, Waltair Division, Visakhapatnam.

2. The Divisional Security Commissioner, Railway Protection Force, East Coast Railway, SambalpurDivsion., Sambalpur, District Sambalpur, Orissa State.

3. Two C.D. copies.